



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

#### **[EPA-R10-OAR-2015-0334; FRL-9936-17-Region 10]**

Approval and Promulgation of Implementation Plans; Washington:

Interstate Transport of Ozone

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting emissions that will have certain adverse air quality effects in other states. On May 11, 2015, the State of Washington made a submittal to the Environmental Protection Agency (EPA) to address these requirements. The EPA is proposing to approve the submittal as meeting the requirement that each SIP contain adequate provisions to prohibit emissions that will contribute significantly to nonattainment or interfere with maintenance of the 2008 ozone National Ambient Air Quality Standard (NAAQS) in any other state.

**DATES:** Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2015-0334, by any of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- Email: [R10-Public\\_Comments@epa.gov](mailto:R10-Public_Comments@epa.gov)
- Mail: Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT - 150), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101
- Hand Delivery / Courier: EPA Region 10 9<sup>th</sup> Floor Mailroom, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT - 150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R10-OAR-2015-0334. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with

any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index.

Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt at (206) 553-0256, [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

Information is organized as follows:

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### **I. Background**

On March 12, 2008, the EPA revised the levels of the primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). The CAA

requires states to submit, within three years after promulgation of a new or revised standard, SIPs meeting the applicable “infrastructure” elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i), requires SIPs to contain “good neighbor” provisions to prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. There are four sub-elements within CAA section 110(a)(2)(D)(i). This action addresses the first two sub-elements of the good neighbor provisions, at CAA section 110(a)(2)(D)(i)(I). These sub-elements require that each SIP for a new or revised standard contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will “contribute significantly to nonattainment” or “interfere with maintenance” of the applicable air quality standard in any other state. We note that the EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the eastern portion of the United States in several past regulatory actions.<sup>1</sup> We most recently promulgated the Cross-State Air Pollution Rule (CSAPR), which addressed CAA section 110(a)(2)(D)(i)(I) in the eastern portion of the United States.<sup>2</sup> CSAPR addressed multiple national ambient air quality standards, but did not address the 2008 8-hour ozone standard.<sup>3</sup>

In CSAPR, the EPA used detailed air quality analyses to determine whether an eastern state’s contribution to downwind air quality problems was at or above specific thresholds. If a state’s contribution did not exceed the specified air quality screening threshold, the state was not considered “linked” to identified downwind nonattainment and maintenance receptors and was

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<sup>1</sup> NO<sub>x</sub> SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); Cross-State Air Pollution Rule (CSAPR), 76 FR 48208 (August 8, 2011).

<sup>2</sup> 76 FR 48208.

<sup>3</sup> CSAPR addressed the 1997 8-hour ozone, and the 1997 and 2006 fine particulate matter NAAQS.

therefore not considered to significantly contribute to or interfere with maintenance of the standard in those downwind areas. If a state exceeded that threshold, the state's emissions were further evaluated, taking into account both air quality and cost considerations, to determine what, if any, emissions reductions might be necessary. For the reasons stated below, we believe it is appropriate to use the same approach we used in CSAPR to establish an air quality screening threshold for the evaluation of interstate transport requirements for the 2008 ozone standard.

In CSAPR, the EPA proposed an air quality screening threshold of one percent of the applicable NAAQS and requested comment on whether one percent was appropriate.<sup>4</sup> The EPA evaluated the comments received and ultimately determined that one percent was an appropriately low threshold because there were important, even if relatively small, contributions to identified nonattainment and maintenance receptors from multiple upwind states. In response to commenters who advocated a higher or lower threshold than one percent, the EPA compiled the contribution modeling results for CSAPR to analyze the impact of different possible thresholds for the eastern United States. The EPA's analysis showed that the one-percent threshold captures a high percentage of the total pollution transport affecting downwind states, while the use of higher thresholds would exclude increasingly larger percentages of total transport. For example, at a five percent threshold, the majority of interstate pollution transport affecting downwind receptors would be excluded.<sup>5</sup> In addition, the EPA determined that it was important to use a relatively lower one-percent threshold because there are adverse health impacts associated with ambient ozone even at low levels.<sup>6</sup> The EPA also determined that a

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<sup>4</sup> CSAPR proposal, 75 FR 45210, 45237 (August 2, 2010).

<sup>5</sup> See also Air Quality Modeling Final Rule Technical Support Document, Appendix F; Analysis of Contribution Thresholds.

<sup>6</sup> CSAPR, 76 FR 48208, 48236–37 (August 8, 2011).

lower threshold such as 0.5 percent would result in modest increases in the overall percentages of fine particulate matter and ozone pollution transport captured relative to the amounts captured at the one-percent level. The EPA determined that a “0.5 percent threshold could lead to emission reduction responsibilities in additional states that individually have a very small impact on those receptors — an indicator that emission controls in those states are likely to have a smaller air quality impact at the downwind receptor. We are not convinced that selecting a threshold below one percent is necessary or desirable.”<sup>7</sup>

In the final CSAPR, the EPA determined that one percent was a reasonable choice considering the combined downwind impact of multiple upwind states in the eastern United States, the health effects of low levels of fine particulate matter and ozone pollution, and the EPA’s previous use of a one-percent threshold in CAIR. The EPA used a single “bright line” air quality threshold equal to one percent of the 1997 8-hour ozone standard, or 0.08 ppm.<sup>8</sup> The projected contribution from each state was averaged over multiple days with projected high modeled ozone, and then compared to the one-percent threshold. We concluded that this approach for setting and applying the air quality threshold for ozone was appropriate because it provided a robust metric, was consistent with the approach for fine particulate matter used in CSAPR, and because it took into account, and would be applicable to, any future ozone standards below 0.08 ppm.<sup>9</sup>

## **II. State Submittal**

CAA sections 110(a)(1) and (2) and section 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. The EPA has promulgated

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<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices by prominent advertisement in the relevant geographic area, a public comment period of at least 30 days, and an opportunity for a public hearing.

On May 11, 2015, Washington submitted a SIP to address the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. The Washington submittal included documentation of a public comment period from March 9, 2015 through April 10, 2015, and opportunity for public hearing. We find that the process followed by Washington in adopting the submittal complies with the procedural requirements for SIP revisions under CAA section 110 and the EPA's implementing regulations.

With respect to the requirements in CAA section 110(a)(2)(D)(i)(I), the Washington submittal referred to applicable rules in the Washington SIP, 2011 National Emissions Inventory (NEI) data, and modeling conducted by the State using the Motor Vehicle Emission Simulator (MOVES2014, database version 20141021). Washington noted that efforts by the EPA and states to address ozone transport have historically been focused on reductions of nitrogen oxides (NO<sub>x</sub>), a precursor to ozone formation, and provided 2011 NEI data for the major NO<sub>x</sub> emissions categories in the State. Washington found that on-road mobile sources comprise 57 percent of total NO<sub>x</sub> emissions, non-road mobile sources represent 11 percent, and the third largest group, point sources, comprises 9 percent of all Washington NO<sub>x</sub> emissions in 2011. Washington then performed MOVES2014 modeling to look specifically at past and future trends in on-road and non-road mobile sources, the two largest source categories in Washington, for the years 2000 through 2020. The MOVES2014 modeling showed sustained, continuous reductions in NO<sub>x</sub> emissions from approximately 800 tons per day in 2000 to approximately 250 tons per day projected in 2020. Based on this evidence, and the EPA's draft photochemical air quality modeling data available at the

time of Washington's submission, the State concluded that emissions of ozone precursors from Washington sources will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state.<sup>10</sup>

The Washington submittal provided further information to support this conclusion by citing the stationary source permitting regulations approved into the Washington SIP that require new sources and modifications to protect the ambient air quality standards, including the 2008 ozone NAAQS. With respect to new or modified major stationary sources, the Prevention of Significant Deterioration (PSD) permitting program in the Washington SIP requires an owner or operator to demonstrate that the source will not contribute significantly to nonattainment or interfere with maintenance in another state.

### **III. EPA Evaluation**

On August 4, 2015, the EPA issued a Notice of Data Availability (NODA) containing air quality modeling data that applies the CSAPR approach to contribution projections for the year 2017 for the 2008 8-hour ozone NAAQS.<sup>11</sup> The moderate area attainment date for the 2008 ozone standard is July 11, 2018. In order to demonstrate attainment by this attainment deadline, states will use 2015 through 2017 ambient ozone data. Therefore, 2017 is an appropriate future year to model for the purpose of examining interstate transport for the 2008 ozone NAAQS. The EPA used photochemical air quality modeling to project ozone concentrations at air quality monitoring sites to 2017 and estimated state-by-state ozone contributions to those 2017

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<sup>10</sup> See Memorandum from Stephen D. Page entitled "Information of the Interstate Transport "Good Neighbor" Provision for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) under Clean Air Act (CAA) Section 110(a)(2)(D)(i)(I)," January 22, 2015, available at: <http://www3.epa.gov/airtransport/GoodNeighborProvision2008NAAQS.pdf>

<sup>11</sup> See 80 FR 46271 (August 4, 2015) (Notice of Availability of the Environmental Protection Agency's Updated Ozone Transport Modeling Data for the 2008 Ozone National Ambient Air Quality Standard (NAAQS)).



concentrations. This modeling used the Comprehensive Air Quality Model with Extensions (CAMx version 6.11) to model the 2011 base year, and the 2017 future base case emissions scenarios to identify projected nonattainment and maintenance sites with respect to the 2008 ozone NAAQS in 2017. The EPA used nationwide state-level ozone source apportionment modeling (CAMx Ozone Source Apportionment Technology/Anthropogenic Precursor Culpability Analysis technique) to quantify the contribution of 2017 base case NO<sub>x</sub> and VOC emissions from all sources in each state to the 2017 projected receptors. The air quality model runs were performed for a modeling domain that covers the 48 contiguous United States and adjacent portions of Canada and Mexico. The NODA and the supporting technical documents have been included in the docket for this action.

The modeling data released in the NODA on July 23, 2015, is the most up-to-date information the EPA has developed to inform our analysis of upwind state linkages to downwind air quality problems. For purposes of evaluating Washington's interstate transport SIP submittal with respect to the 2008 8-hour ozone standard, the EPA is proposing that states whose contributions are less than one percent to downwind nonattainment and maintenance receptors are considered non-significant. The modeling indicates that Washington's largest contribution to any projected downwind nonattainment site is 0.22 ppb and Washington's largest contribution to any projected downwind maintenance-only site is 0.09 ppb.<sup>12</sup> These values are below the one percent screening threshold of 0.75 ppb, and therefore there are no identified linkages between Washington and 2017 downwind projected nonattainment and maintenance sites. Note that the EPA has not done an assessment to determine the applicability for the use of the one percent screening threshold for western states that contribute above the one percent threshold. There

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<sup>12</sup> 80 FR 46271 at page 46277, Table 3.

may be additional considerations that may impact regulatory decisions regarding “potential” linkages in the west identified by the modeling.

#### **IV. Proposed Action**

As discussed in Section II, Washington concluded that emissions from the State do not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone standard in any other state. The EPA’s modeling, discussed in Section III, confirms this finding. Based on the modeling data and the information provided in Washington’s May 11, 2015 submittal, we are proposing to approve the submittal for purposes of meeting the CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone standard. The EPA’s modeling confirms the results of the State’s analysis: Washington does not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone standard in any other state.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Dated: October 15, 2015.

Dennis J. McLerran,  
Regional Administrator,  
Region 10.  
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